

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) AVIS HUNT, as Special)
Administrator for the)
ESTATE OF DAMON LAMONT)
FALLS, deceased,)
vs.) Case No. CIV-12-755-L
)
(1) DANIEL HERRING,)
Individually, while acting)
under color of law, as an)
Oklahoma City Police)
Officer, and)
(2) JACOB COLE, Individually,)
while acting under color)
of law, as an Oklahoma)
City Police Officer, and)
(3) ZACHARY MILLER,)
Individually, while acting)
under color of law, as an)
Oklahoma City Police)
Officer, and)
(4) RAMON CASTRO,)
Individually, while acting)
under color of law, as an)
Oklahoma City Police)
Officer, and)
(5) AARON WAKE, Individually,)
while acting under color)
of law, as an Oklahoma)
City Police Officer, and)
(6) TYLER DUNCAN,)
Individually, while acting)
under color or law, as an)
Oklahoma City Police)
Officer, and)
(7) THE CITY OF OKLAHOMA CITY)
a municipal Corporation,)

DEPOSITION OF DANIEL JOHN HERRING
TAKEN ON BEHALF OF THE PLAINTIFF
ON JULY 10, 2013
IN OKLAHOMA CITY, OKLAHOMA

REPORTED BY: JILL OTWELL, CSR, RPR

1 Q After Mr. Falls was in custody, what was the
2 next thing that you did there at the scene?

3 A Mr. Falls kept rolling around on the ground,
4 so I was trying to hold him up on one side so the
5 prongs in his back from the Taser wouldn't go farther
6 into his skin. And also to try to help him breathe
7 better. Because I know it's hard to breathe while
8 you're laying on your chest. So I was holding him up
9 on his side, attempting to.

10 Q Was anyone giving you assistance in holding
11 him up on his side?

12 A I don't recall.

13 Q How were you doing that holding him up on
14 the side?

15 A Just with my hand, holding the shoulder.

16 Q Did Mr. Falls ever attempt to stand?

17 A No. But he continued to roll back and
18 forth.

19 Q Did Mr. Falls say anything?

20 A No. Not words. He was mumbling.

21 Q Did you make out anything he was mumbling?

22 A No.

23 Q Did he seem to be in pain?

24 A No.

25 Q Did he ever indicate that he had a shortness

1 A After he continued to roll back and forth
2 and he was able to move his hands to the side of his
3 body, we realized how many cuffs he had on were too
4 many; he had too much movement. So we decided to go
5 down to one set of cuffs.

6 Q What was done at that point?

7 A He was laid back to his stomach and two
8 officers, two or three officers, switched. Went from
9 two or three cuffs down to one cuff.

10 Q I've heard officers talk about hinged cuffs
11 in regard to Mr. Falls. Is that the type of cuffs
12 that was used to replace the multiple cuffs that were
13 on him?

14 A Yes, sir.

15 Q How long after you had heard the statement
16 made "we have him in custody," was it before you
17 changed out the multiple cuffs for the hinged cuffs?

18 A Just a guess. Maybe a minute.

19 Q After Mr. Falls had the hinged cuffs placed
20 on him, did you attempt to roll him back onto his side
21 again?

22 A Yes. After that, he was rolled onto his
23 right side. Or facing -- yeah, I believe it was his
24 right side.

25 Q Started to say he was facing. Facing what?